

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY OF ILLINOIS	)	
	)	
Petition for a Certificate of Public Convenience and	)	
Necessity, pursuant to Section 8-406.1 of the Illinois	)	
Public Utilities Act, and an Order pursuant to Section 8-	)	Docket No. 12-0598
503 of the Public Utilities Act, to Construct, Operate and	)	
Maintain a New High Voltage Electric Service Line and	)	
Related Facilities in the Counties of Adams, Brown,	)	
Cass, Champaign, Christian, Clark, Coles, Edgar, Fulton,	)	
Macon, Montgomery, Morgan, Moultrie, Pike,	)	
Sangamon, Schuyler, Scott and Shelby, Illinois.	)	

**AMEREN TRANSMISSION COMPANY OF ILLINOIS’  
REPLY IN SUPPORT OF ITS MOTION TO STRIKE CERTAIN INTERVENORS’  
UNTIMELY ALTERNATE ROUTE PROPOSALS**

Gan Properties, LLC (Gan), Rural Clark and Edgar County Concerned Citizens (RCECCC), Paula Cooley of the Macon County Property Owners, and Donna Allen offer no valid justification to ignore the schedule set by the Administrative Law Judges (ALJs) for intervenors to submit alternate route proposals. Each of their untimely alternate route proposals affect landowners who have not received notice of this proceeding. To consider these untimely alternate routes would prejudice not only ATXI, but also other newly-affected landowners whom the Commission has not provided notice of this proceeding. For these and the reasons set forth below, the Commission should strike these untimely alternate route proposals. The Commission should also strike the alternate route proposed by Wiese Farms, as Wiese Farms did not respond to ATXI’s Motion.

Gan Properties LLC

Gan argues that its tardy alternate route proposal should be excused because of “ATXI’s [failure] to provide [Gan] with sufficient notice.” Whether ATXI notified Gan of this proceeding

is beside the point. Gan admits that it received notice of this proceeding directly from the Commission. Gan has admitted *repeatedly* that it received notice of this proceeding in January 2013. (Gan Resp. p. 1, ¶ 1-2; Direct Testimony of Kenneth Skolnick, ¶ 8, Exhibit E; Responses to data requests ATXI-GP 1.11 (attaching notice); ATXI-GP 2.02). The Commission issued notice of this proceeding to Gan on January 7, 2013. The notice informed Gan of the following:

- Gan was identified as an owner of property along one of the routes upon which ATXI proposed to construct the transmission line;
- This docket is the only opportunity to contest the route of ATXI's proposed transmission line;
- Illinois law allows the Commission only 225 days from the date of ATXI's filing to conclude this proceeding;
- ATXI will attempt to negotiate acquisition of certain property rights from Gan if the approved route would be construction on Gan's property;
- ATXI may file a petition seeking authority from the Commission to obtain certain property rights from Gan through eminent domain in order to construct the transmission line;
- Gan cannot contest the propriety of the route of the transmission line in any future eminent domain proceeding; and
- A status hearing was scheduled for January 17, 2013 to discuss a case schedule.

(Direct Testimony of Kenneth L. Skolnik, Exhibit E, p. 6 ("Notice to Landowner").)

Notwithstanding receiving this notice, Gan now states the Notice "does not clearly state that the Project would impact Gan Properties". (Gan Resp. ¶ 2.) However, the very first sentence in the "Notice to Landowner" reads: "The enclosed notice of a status hearing is being mailed to you because **you have been identified as an owner of property along one of the routes upon which Ameren Transmission Company of Illinois ("ATXI") proposes to construct facilities.**" (emphasis added.) The Notice continues, "This docket is the only opportunity to contest the route of ATXI's proposed facilities." Clearly Gan should have known that the Project would impact its properties in January when it received the Notice.

Gan also complains it had "only a limited amount of time following its Petition to Intervene to conduct an investigation into ATXI's Petition, route proposals, and the filings on the

Docket [sic], and also respond to ATXI's data requests." (Gan Resp. ¶ 3.) But the same time limitations that applied to Gan applied to all other intervenors as well. Gan could have elected to participate in the January 17, 2013 status conference. It did not. Gan could have filed an alternate route proposal on February 13, 2013. It did not. And had Gan believed that it had a valid reason for extension of the February 13 deadline, it could have asked for one. Gan did not do this, either. Instead, Gan simply waited until March 13 to intervene in the case, and until March 29 to submit an alternate route.

The problem with considering Gan's untimely route should be obvious: to date, the landowners on Gan's alternate route have not been notified of this proceeding. These landowners would have less than three weeks to prepare for the evidentiary hearing, and virtually no time to conduct any meaningful discovery. The Commission should not remedy any alleged "prejudice" to Gan by simply shifting the prejudice somewhere else. Gan's proposed alternate route should be stricken.

#### Paula Cooley

Paula Cooley's Response *does not dispute* that she failed to abide by the ALJs instructions (Tr. 40 (Dec. 3, 2012)) and the Case Management Plan. Rather, Ms. Cooley's Response characterizes her testimony as a "criticism of the routes chosen by ATXI," not an alternate route. To the extent Ms. Cooley concedes that her filing merely offers "criticism" but does not propose an alternate route, she should have no objection to an order that clarifies that her "criticism" will not be deemed an alternate route. If, however, the Commission construes these "criticisms" as an alternate route proposal, the proposal must be stricken as untimely.

Donna Allen

Ms. Allen included an alternate route proposal in her Petition to Intervene filed in December 2012. She informed ATXI on February 15, 2013—six weeks after the December 31, 2012 deadline—that she was withdrawing her proposal because she “was not able to gather Names and Addresses of individuals that might be impacted by [her] alternate route by the deadline due to a death in the family. ” (Response to ATXI-Allen 1.28.) Yet on March 29, 2013, Ms. Allen filed direct testimony supporting her “withdrawn,” untimely and improper alternate route proposal. To date, Ms. Allen has not provided the names and addresses of any landowner who would be affected by her alternate route.

ATXI is not unmindful of personal circumstances that may have impacted Ms. Allen’s ability to timely comply with the ALJs ruling. But more parties are affected by untimely submissions that just Ms. Allen. The Case Management Plan is in place in order to attempt to secure the orderly presentation of parties’ position in this proceeding. The Commission cannot permit an individual intervening party to miss filing deadlines set by the ALJs, particularly when the issue of notice to newly impacted landowners remains unresolved.<sup>1</sup>

Rural Clark and Edgar County Concerned Citizens

In direct testimony, Mr. Orin proposes an alternate route that would utilize an existing transmission line in Clark and Edgar Counties, stating, “We believe the path of one of these existing lines would be more economical and therefore **should be used to build any new power lines.**” (Affidavit of George Orin ¶ 4A)(emphasis added.) In responding to ATXI’s motion, however, RCECCC’s Response claims “while not directly stated,” the “intention [of Mr. Orin’s

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<sup>1</sup> Additionally, Ms. Allen’s Response includes a request to remove the Kansas-Sugar Creek Portion of the Project from this case and consider it in a separate proceeding. Such requests to bifurcate this proceeding are already the subject of testimony and should be disregarded.

testimony] was not to suggest alternative routes [but]... to support the two alternate routes suggested by Intervenor, Stop the Power Lines Coalition . . . .” (RCECCC Resp. ¶ 5-6.) As with Ms. Cooley, to the extent Mr. Orin concedes that his filing merely offers “support” but does not propose an alternate route, he should have no objection to an order that clarifies that his “support” will not be deemed an alternate route

Stop the Power Lines Coalition’s route were proposed in accordance with the timing set forth in the Case Management Plan, and if RCECCC wishes to support them, they may do so in accordance with the Case Management Plan. ATXI will address the alternate routes proposed by Stop the Power Lines Coalition in its rebuttal testimony.

Having provided no justification for their untimely filings, the alternative routes proposed by Gan Properties LLC, Wiese Farms, Rural Clark and Edgar County Concerned Citizens, Paula Cooley, and Donna Allen should be stricken.

Dated: April 22, 2013

Respectfully submitted,

Ameren Transmission Company of Illinois

*/s/ Albert D. Sturtevant*

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**CERTIFICATE OF SERVICE**

I, Albert D. Sturtevant, an attorney, certify that on April 22, 2013, I caused a copy of the foregoing *ATXI's Reply In Support of It's Motion to Strike Certain Intervenors' Untimely Alternate Route Proposals* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert D. Sturtevant

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